

CHAPTER 24

ADMINISTRATIVE REVIEW PROCEDURE

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24.01 LEGISLATIVE PURPOSE. The purpose of this chapter is to afford a constitutionally sufficient, fair and orderly administrative review procedure in connection with determinations by City authorities which involve constitutionally protected rights of specific persons which are entitled to due process protection under the Fourteenth Amendment of the United States Constitution.

24.02 REVIEW OF ADMINISTRATIVE DETERMINATIONS. Any person having a substantial interest which is adversely affected by an administrative determination of a governing board, commission, committee, agency, official or employee of the City or an agent acting on its behalf as set forth in Section 24.03 may have such determination reviewed as provided in this chapter. The remedies under this chapter shall not be exclusive. No department, board, commission, agency, officer or employee of the City who is aggrieved may initiate review under this chapter of a determination of any other department, board, commission, agency, officer or employee of the City, but may respond or intervene in a review proceeding under this chapter initiated by another.

24.03 DETERMINATIONS REVIEWABLE. The following determinations are reviewable under this chapter:

- (1) The grant or denial in whole or in part, after application, of an initial permit, license, right, privilege or authority, except an alcohol beverage license.
- (2) The suspension, revocation or nonrenewal of an existing permit, license, right, privilege or authority, except as provided in Section 24.04(5).
- (3) The denial of a grant of money or other thing of substantial value under a statute or ordinance prescribing conditions of eligibility for such grant.
- (4) The imposition of a penalty or sanction upon any person except a City employee or officer, other than by a court.

24.04 DETERMINATIONS NOT SUBJECT TO REVIEW. Except as provided in Section 24.03, the following determinations are not reviewable under this chapter:

- (1) A legislative enactment. A legislative enactment is an ordinance, resolution or adopted motion of the City Council.
- (2) Any action subject to administrative or judicial review procedures under State Statutes or other provisions of this Code.
- (3) The denial of a tort or contract claim for money required to be filed with the City under Section 62.25, Wis. Stats.

(4) The suspension, removal, disciplining or nonrenewal of a contract of a City employee or officer.

(5) The grant, denial, suspension or revocation of an alcohol beverage license under Sections 125.04 and 125.12, Wis. Stats.

(6) Judgments and orders of a court.

(7) Determinations made during municipal labor negotiations.

(8) Notwithstanding any other provision of this chapter, any action or determination of a City authority which does not involve the constitutionally protected right of a specific person or persons to due process in connection with the action or determination.

24.05 MUNICIPAL AUTHORITY DEFINED. “Municipal authority” includes the City Council, commission, committee, agency, official, employee or agent of the City making a determination under Section 24.02.

24.06 PERSONS AGGRIEVED. A person aggrieved includes any individual, partnership, corporation, limited liability company, association, public or private organization, and any official, department, board, commission or agency of the City, whose rights, duties or privileges are adversely affected by a determination of a municipal authority.

24.07 REDUCING DETERMINATION TO WRITING. If a determination subject to this chapter is made orally or, if in writing, does not state the reasons therefor, the municipal authority making such determination shall, upon written request of any person aggrieved by such determination made within 10 days of notice of such determination, reduce the determination and the reasons therefor to writing and mail or deliver such determination and reasons to the person making the request. The determination shall be dated and shall advise such person of his right to have such determination reviewed, shall advise that such review may be taken within 30 days and shall name the office or person to whom a request for review shall be addressed.

24.08 TIME WITHIN WHICH APPEAL MAY BE TAKEN. A person aggrieved may appeal from a decision within 30 days of notice of such decision by filing with or mailing to the office of the Administrator a written notice of appeal. The notice shall state the aggrieved person’s name and the reasons for his objection to the determination.

24.09 ADMINISTRATIVE APPEAL. (1) TIME OF HEARING. The City shall provide the appellant a hearing on an appeal under Section 24.11 within 30 days of receipt of the notice of appeal filed or mailed under Section 24.11 and shall

serve the appellant with notice of such hearing by mail or personal service at least 20 days before such hearing.

(2) **CONDUCT OF HEARING.** At the hearing, the appellant and the City may be represented by counsel and may present evidence and call and examine witnesses and cross-examine witnesses of the other party. Such witnesses shall be sworn by the person conducting the hearing.

(3) **RECORD OF HEARING.** The person conducting the hearing or a person employed for the purpose of making a record of the hearing shall take notes of the testimony and shall mark and preserve all exhibits. The person conducting the hearing may, and upon request of the appellant shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the City.

24.10 FINAL DETERMINATION. Within 20 days of completion of the hearing conducted under Section 24.09 and the filing of briefs, if any, the decision maker shall mail or deliver to the appellant its written determination, stating the reasons therefor. Such determination shall be a final determination.

24.11 JUDICIAL REVIEW. (1) As provided in Section 68.13, Wis. Stats., any party to a proceeding resulting in a final determination may seek review thereof by writ of certiorari within 30 days of receipt of the final determination. The court may affirm or reverse the final determination, or remand to the decision maker for further proceedings consistent with the court's decision.

(2) If review is sought of a final determination, the record of the proceedings shall be transcribed at the expense of the person seeking review. A transcript shall be supplied to anyone requesting the same at the requester's expense. If the person seeking review establishes impecuniousness to the satisfaction of the reviewing court, the court may order the proceedings transcribed at the expense of the City and the person seeking review shall be furnished a free copy of the transcript. By stipulation, the court may order a synopsis of the proceedings in lieu of a transcript. The court may otherwise limit the requirement for transcript.

24.12 LEGISLATIVE REVIEW. (1) Seeking review pursuant to Section 24.09 or 24.11 does not preclude a person aggrieved from seeking relief from the City Council or any of its boards, commissions, committees or agencies which may have jurisdiction.

(2) If, in the course of legislative review under this section, a determination is modified, such modification and any evidence adduced before the City Council, board, commission, committee or agency shall be made part of the record on review under Section 68.10, Wis. Stats.

(3) The City Council, board, commission, committee or agency conducting a legislative review under this section need not conduct the type of hearing required under Section 24.09.

24.13 AVAILABILITY OF METHODS OF RESOLVING DISPUTES. This chapter does not preclude the City and person aggrieved from employing arbitration, mediation or other methods of resolving disputes and does not supersede contractual provisions for that purpose.

24.14 APPEALS - WHO TO HEAR. (1) Appeals from decisions by a municipal authority, except decisions by the Building Inspector, shall be heard by the two members of the standing committee of the Council most closely related to the subject matter of the appeal plus the President of the Common Council, or if the President of the Common Council is one of the two persons on the standing committee, then by the two persons on the committee and a third person to be appointed by the Mayor with approval of the Common Council.

(2) Appeals from decisions by the Building Inspector shall be heard by the Board of Appeals pursuant to Section 17.39 of this Municipal Code. The provisions of this chapter to the extent they do not conflict with Section 17.39 shall govern appeals of decisions of the Building Inspector.